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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,200	12/15/2003	Bob Cusack	053.0002 (026727.0001)	4788
7590	12/19/2005		EXAMINER	CUFF, MICHAEL A
Erik B cherdak Esq Duane Morris LLP 1667 K Street N W Suite 700 Washington, DC 20006			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/734,200	CUSACK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael Cuff	3627	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 November 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 28-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 28 is written as a Jepson claim, it is not clear if applicant intended that everything prior to "the improvement comprising" to be admitted prior art.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Danielson et al. in view of Beach et al. and Derfler Jr. et al.

Danielson et al. shows all of the limitations of the claims except for specifying real-time communication, the use of a web browser application with control user entry, HTML documents, and peripheral devices including a printer and cash drawers, which automatically open during a sale.

Danielson et al. shows, figures 1 and 3, an in-store multiple device communications unit and centralized data system (electronic data network). Figure 3 shows a district central site 30 (central database facility, central database management facility) in communication through leased line 32 with multiple store location units 31-N (application facilities, client data processing facilities). Figure 1 shows each store location units network including a point of sale network 13 (user interfaces, remote point of sale, having self-contained software), which performs the day-to-day sales functions (operation and verification of user-entered data). Sales and operation data (items) are processed through (received, retrieved, accessed) the network. The corporate network 34 (enterprise function) receives and supplies data (enterprise data) to the network.

Derfler, Jr. et al. teaches, page 185, "Today, anyone can subscribe to an Internet service provider, or ISP. An ISP typically leases a high-speed connection to the Internet backbone network, ..."

Based on the teaching of Derfler Jr. et al., it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the leased phone line communication system of Danielson et al. to incorporate a high-speed ISP leased line in place of the Danielson leased line in order to take advantage of well known and available technologies to increase communication speed.

Beach et al. teaches, figure 1, a POS network system using an Internet and intranet scanning terminal system. In a preferred embodiment of the invention, a portable terminal having an integrated machine code reader (script instructions for control user-entry) and a radio is provided with a graphical user interface such as a

□web browser□ in order to display instructional files (column 2, lines 8-12). The structure of the system permits the retail facility to use standard programming tools such as HTML 3.0 for the creation of an Intranet/Internet environment for ease of retrieving and converting data files (column 10, lines 35-39). Figure 6 shows many devices including a printer linked to POS terminal 170 in order to document and facilitate sales.

The examiner takes official notice that POS registers can have cash drawers, which open automatically during a sale in order to hold the cash and facilitate the sale.

Based on the teaching of Beach et al., it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the phone line communication system of Danielson et al. to incorporate the Beach et al. communications system including the use of the Internet, a web browser, and HTML documents in order to take advantage of improved displays and improved ability to retrieve and convert data files. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to expand upon the POS terminals of Danielson et al. to incorporate cash drawers which open automatically during a sale in order to hold the cash and facilitate the sale and printers in order to document and facilitate sales.

***Response to Arguments***

Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

The examiner would like to make a note about the weak claim language used. In a method claim, "permitting" something to happen does not mean that the something has to happen. For example, a system may permit a price change based on low inventory, but the process step of changing the price at a POS in real-time has not happened. Without positively reciting the method, the examiner is not giving much patentable weight to the content of what may be permitted to change.

Also, the term "downloadable" merely means having the capability of being downloaded.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (571) 272-6778. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Cuff  
December 12, 2005